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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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Date: Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

NOV 15 2011

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based preference visa petition on January 16, 2008. The petitioner appealed the decision to the Administrative Appeals Office (AAO) on February 19, 2008. The AAO rejected the appeal as being untimely filed on June 23, 2010. The petitioner filed a subsequent appeal with the AAO on July 21, 2010. The petitioner's July 21, 2010 appeal will be rejected.

The petitioner is an information technology management and technical services business. It seeks to employ the beneficiary permanently in the United States as a senior programmer analyst pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, an alien employment certification, which the Department of Labor (DOL) approved, accompanied the petition.

In his January 16, 2008 decision, the director determined that the petitioner had not established that the beneficiary possessed the requisite education for the position and denied the petition accordingly. The AAO rejected the petitioner's appeal as being untimely filed on June 23, 2010. On July 21, 2010, the petitioner appealed the AAO's June 23, 2010 decision rather than filing a motion to reopen or reconsider.

The petitioner's July 21, 2010 appeal must be rejected. The AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

Therefore, as the appeal was not properly filed, it will be rejected. 8 C.F.R. §103.3(a)(2)(v)(A)(I). The AAO will reopen the matter sua sponte under separate cover.

ORDER: The appeal is rejected.